



US Army Corps  
of Engineers  
St Paul District

# **Special Public Notice**

**APPLICANT:** Minnesota Department of  
Transportation (MnDOT)

**ISSUED:** 12/08/2014  
**EXPIRES:** 01/07/2015

**REFER TO:** 2006-02250-MMJ

**SECTION:** 404 - Clean Water Act

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## NOTICE OF AVAILABILITY OF THE TRUNK HIGHWAY 41 TIER 1 FINAL ENVIRONMENTAL IMPACT STATEMENT AND ASSOCIATED CLEAN WATER ACT SECTION 404 REVIEW PROCESS

1. PURPOSE OF THIS PUBLIC NOTICE. The purpose of this public notice is to invite public comment on the Tier 1 Final Environmental Impact Statement (FEIS) prepared by the Federal Highway Administration (FHWA) and the Minnesota Department of Transportation (MnDOT) for the purpose of selecting a new Trunk Highway (TH) 41 Minnesota River crossing in the vicinity of the Cities of Chaska, Carver, and Chanhassen, and Dahlgren Township in Carver County and the City of Shakopee and Jackson and Louisville Townships in Scott County. The approximate decimal degree coordinates for the center of the project area are Latitude 44.76 and Longitude -93.62.

The attached figures, labeled as 2006-02250-MMJ, Figures 1 of 8 through 4 of 8, show the general project location, alternative corridor locations, and the preferred alternative for the crossing as indicated in the FEIS.

The Army Corps St. Paul District (Corps) is a cooperating agency in the preparation of the TH 41 Tier 1 FEIS, and is applying Clean Water Act (CWA) Section 404 evaluation criteria to the FEIS and the selection of a corridor for the TH 41 improvements. The Corps has consulted with the FHWA, MnDOT, the U.S. Environmental Protection Agency (EPA), the U.S. Fish and Wildlife Service (FWS) and the Minnesota Department of Natural Resources (MnDNR) while conducting a CWA Section 404 review concurrently with the tiered EIS process.

The attached figures, labeled as 2006-2250-MMJ, Figures 5 of 8 through 8 of 8 include a summary of the potential impacts associated with the project's preferred alternative as indicated in the FEIS.

2. BACKGROUND. Section 404 of the CWA prohibits discharges of dredged or fill material into waters of the United States unless the work has been authorized by a Department of the Army permit. Waters of the United States may include rivers, lakes, ponds, streams, wetlands and other aquatic resources.

The Corps' evaluation of a CWA Section 404 standard permit application is a three part analysis that (1) determines whether the proposal complies with the Section 404(b)(1) Guidelines, under 40 CFR

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Part 230.10, (2) evaluates the proposal's impacts in accordance with the National Environmental Policy Act (NEPA), under appendix B of 33 CFR Part 325, and (3) determines whether the proposal is contrary to the public interest, under 33 CFR Part 320.4(a).

The proposed project is not currently programmed for construction within the next 20 years. However, FHWA and MnDOT have identified a need to preserve a corridor that best meets the project objectives as soon as possible, since the rapid development of the study area would further limit available options for meeting the transportation need. Therefore, FHWA and MnDOT are using a "tiered" two-step environmental review process (as permitted by NEPA regulations and by Minnesota Rules 4410.4000) for the proposed project.

The Tier 1 EIS addresses the social, economic and environmental issues associated with alternative corridor locations in order to identify a preferred corridor for the project. A Tier 2 environmental process, which will be initiated at a time closer to project construction, will address project-specific issues and focus on the proposed project's design alternatives, environmental impacts and mitigation.

The Corps is a cooperating agency in the preparation of the Tier 1 EIS; we are reviewing the EIS for consistency with CWA Section 404 requirements. In addition, because this proposal is being studied as a tiered process, with the location decision being during the Tier 1 process and the specific design decisions being made during the Tier 2 process, FHWA has requested that the Corps document their concurrence or non-concurrence at major milestones during the development of the Tier 1 and Tier 2 EIS.

3. CONCURRENT REVIEW PROCESS. The Corps CWA Section 404 review has occurred concurrently with the TH 41 Tier 1 EIS process, and has included:

- a. The solicitation of public input, including the issuance of a Special Public Notice for this project on July 13, 2007, to request comments on the TH 41 Tier 1 DEIS and to describe the proposed incorporation of CWA Section 404 requirements into the EIS process being used to select a preferred river crossing at this location. We are now issuing this second Special Public Notice to request comments on the TH 41 Tier 1 FEIS, and to describe CWA Section 404 review of the project thus far.
- b. Documentation of our concurrence at major mile-stones during development of the TH 41 EIS, as described in the NEPA/404 merger process. The purpose of this merger process is to incorporate CWA Section 404 regulatory requirements into the project planning/NEPA review process, to achieve an orderly, concurrent review process. The concurrence points for this merger process include: 1. Project Purpose and Need, 2. Array of Alternatives and Alternatives Carried Forward, 3. Identification of the Selected Alternative and 4. Design Phase Impact Minimization. The Corps concurs with Points 1 & 2 of the merger process for this project; we have determined that Project Purpose and Need and the Array of Alternatives Carried Forward in the TH 41 Tier 1 FEIS satisfy Section 404 regulatory requirements. The Corps also concurs with Point 3 of the merger process for this project; we have made a preliminary determination that the preferred corridor identified as Modified Alternative C-2 in the TH 41 Tier 1 FEIS represents the Least Environmentally Damaging Practicable Alternative (LEDPA) for this project, as defined in our 404(b)(1) Guidelines. The Corps will address Point 4 of the merger process during completion of the Tier 2 EIS.

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c. Preparation of an administrative record of this process, documenting Corps concurrence with Points 1 through 3 of the NEPA/404 merger process, and addressing comments received in response to public notices for this project. This administrative record will be closed when FHWA and MnDOT complete the Tier 1 FEIS Process, and will be available for reference upon initiation of the Tier 2 EIS Process.

4. DOCUMENT AVAILABILITY. This public notice is available on the Corps website at:

<http://www.mvp.usace.army.mil/Missions/Regulatory.aspx>

The Tier 1 FEIS and additional information about the project is available on the MnDOT website at:

<http://www.dot.state.mn.us/metro/projects/hwy41bridge/>

5. REPLIES/COMMENTS. Interested parties are invited to submit to this office written facts, arguments, or objections within 30 days of the date of this notice. These statements should bear upon the suitability of the location and the adequacy of the project and should, if appropriate, suggest any changes believed to be desirable. Comments received may be forwarded to the applicant.

Replies may be addressed to Regulatory Branch, St. Paul District, Corps of Engineers, 180 Fifth Street East, Suite 700, Saint Paul, MN 55101-1678.

Or, IF YOU HAVE QUESTIONS ABOUT THE PROJECT, call Melissa Jenny at the St. Paul office of the Corps, telephone number (651) 290-5363.

To receive Public Notices by e-mail, go to: [http://mvp-extstp.mvp.usace.army.mil/list\\_server/](http://mvp-extstp.mvp.usace.army.mil/list_server/) and add your information in the New Registration Box.

6. FEDERALLY-LISTED THREATENED OR ENDANGERED WILDLIFE OR PLANTS OR THEIR CRITICAL HABITAT. Carver and Scott County are within the known or historic range of the following Federally-listed threatened (T), endangered (E) and proposed (P) species:

<u>Species</u>	<u>Habitat</u>
Northern long-eared bat (P)	Caves and mines in fall & winter, upland forests in spring and summer.

As delegated by FHWA, MnDOT Environmental Services will be coordinating the project with the U.S. Fish and Wildlife Service (USFWS) in accordance with Section 7 of the Endangered Species Act. Continued involvement with the USFWS will take place through the Tier 2 EIS process. Any comments USFWS may have concerning Federally-listed threatened or endangered wildlife or plants or their critical habitat will be considered in the final assessment of the described work.

7. JURISDICTION. This application is being reviewed in accordance with the practices for documenting Corps jurisdiction under Sections 9 & 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act identified in Regulatory Guidance Letter 08-02. We have made an

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initial determination that the aquatic resources that would be impacted by the proposed project are regulated by the Corps of Engineers under Section 404 of the Clean Water Act and/or Section(s) 9 & 10 of the Rivers and Harbors Act. The Corps will prepare an approved or preliminary jurisdictional determination prior to making a permit decision. Approved jurisdictional determinations are posted on the St. Paul District web page at <http://www.mvp.usace.army.mil/Missions/Regulatory.aspx>.

8. STATE SECTION 401 WATER QUALITY CERTIFICATION. Valid Section 404 permits cannot be issued for any activity unless state water quality certification for the activity is granted or waived pursuant to Section 401 of the Clean Water Act. The state Section 401 authority in Minnesota is the Minnesota Pollution Control Agency (MPCA). The St. Paul District has provided this public notice to the MPCA. Any comments relative to MPCA's Section 401 Certification for the activity proposed in this public notice may be sent to:

Minnesota Pollution Control Agency, Resource Management and Assistance Division,  
Attention: 401 Certification, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194.

9. HISTORICAL/ARCHAEOLOGICAL. This public notice is being sent to the National Park Service and the State Archaeologist for their comments. As delegated by FHWA, the MnDOT Cultural Resources Unit has completed a preliminary review of cultural resources within the project corridor in accordance with Section 106 of the National Historic Preservation Act. Historic Properties have been identified within the project corridor, as described in the TH 41 Tier 1 FEIS.

10. PUBLIC HEARING REQUESTS. Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, in detail, the reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

11. PUBLIC INTEREST REVIEW. The decision whether to issue a permit for this project will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. Environmental and other documents will be available for review in the St. Paul District Office.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the

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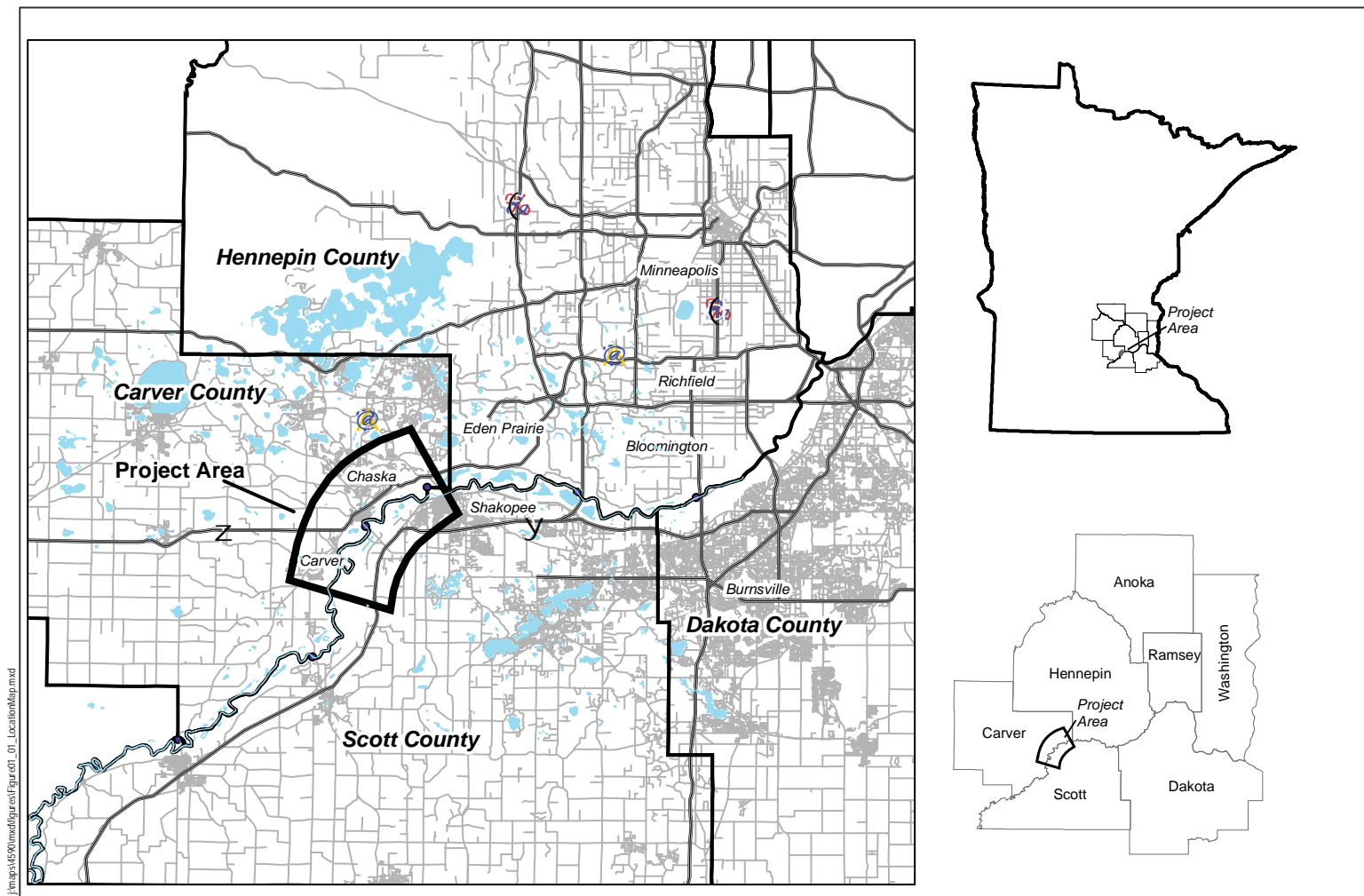
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preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Chad Konickson  
Chief, Southwest Section

Enclosures

NOTICE TO EDITORS: This public notice is provided as background information and is not a request or contract for publication.



# STATE / COUNTY LOCATION MAP

TRUNK HIGHWAY 41 MINNESOTA RIVER CROSSING  
 Final Environmental Impact Statement  
 S.P. #1008-60  
 Minnesota Department of Transportation

Figure 1-1





## PREFERRED ALTERNATIVE

TRUNK HIGHWAY 41 MINNESOTA RIVER CROSSING

Final Environmental Impact Statement

S.P. #1008-60

Minnesota Department of Transportation

Figure 1-2



# **ASSUMED ALIGNMENTS: PREFERRED ALTERNATIVE COMPARED TO DEIS ALTERNATIVE C-2**

TRUNK HIGHWAY 41 MINNESOTA RIVER CROSSING

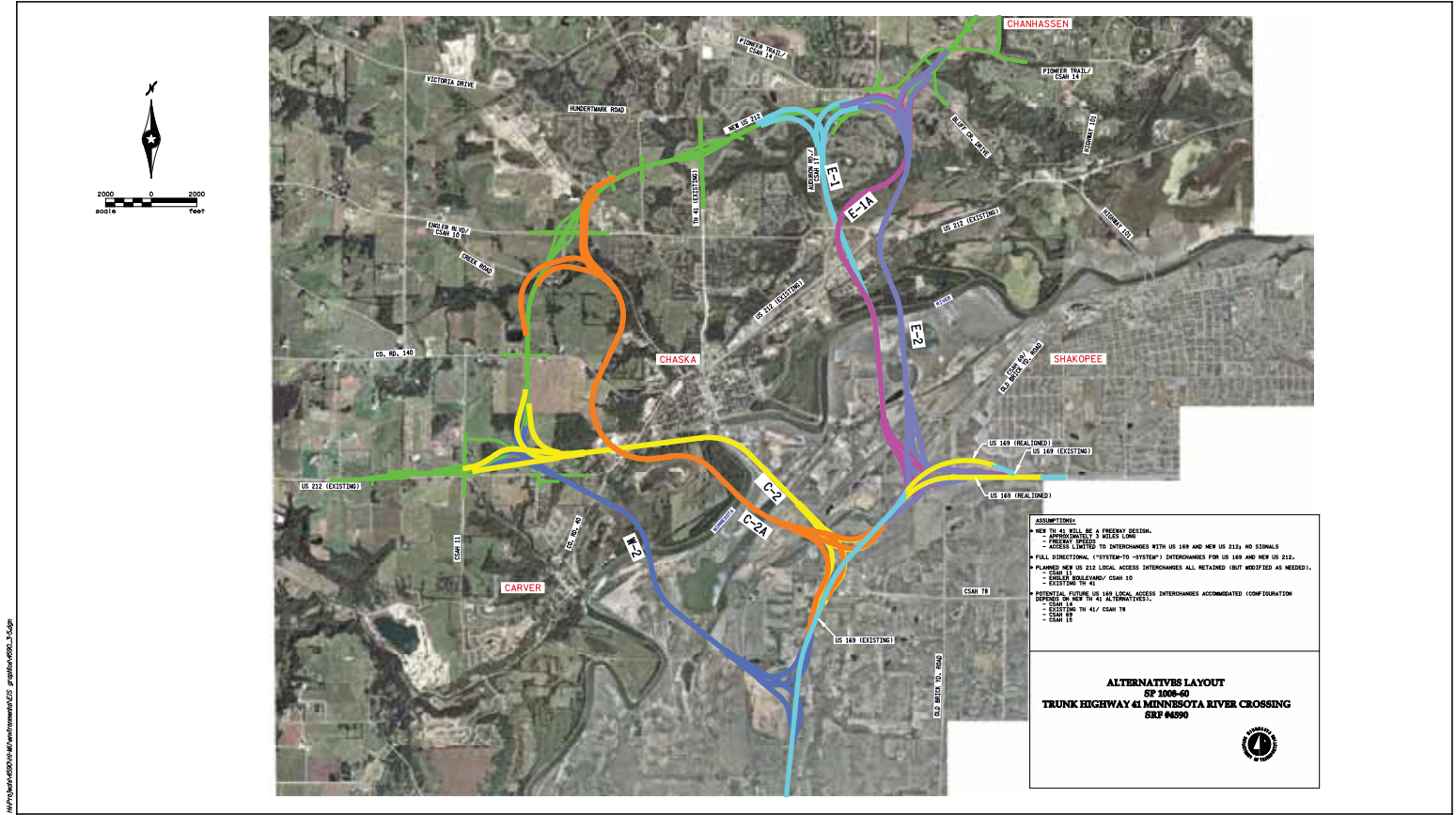
Final Environmental Impact Statement

S.P. #1008-60

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Figure 1-2A





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Figure 1-3

**TABLE 1-1**  
**IMPACT SUMMARY FOR THE PREFERRED ALTERNATIVE**

DESCRIPTION	Roadway length: 3.0 miles Estimated Bridge length: 9,350 feet Estimated Number of piers: 80
TRANSPORTATION AND FISCAL IMPACTS	
Capacity Improvement and Relief to Other River Crossings	
New TH 41 Average Daily Traffic (ADT) (2040)	48,000
Other River Crossings ADT (2040)	
• CSAH 9/45	21,600
• TH 41	22,000
• Highway 101	30,000
• US 169	135,000
• I-35W	133,000
Hours of Congestion (2040)	
• Existing TH 41 north of CSAH 61	0
• Existing TH 41 river crossing	2
• Existing Highway 101 river crossing	7
Regional Efficiency (2040)	
• VMT (difference from No-Build)	314,000
• VHT (difference from No-Build)	-3,500
Safety	
Crashes (2040)	
• Freeway	1,052
• Non-Freeway	9,460
• Downtown Chaska	22
Other	<ul style="list-style-type: none"><li>• Grade-separated rail crossings increase safety and decrease number of stops for transports carrying hazardous/flammable materials.</li><li>• Substantial improvements in emergency response times, especially during flood conditions.</li><li>• Reduced potential for vehicle-bicycle or vehicle-pedestrian conflicts.</li></ul>
Trucks per day (% of ADT) (2040)	
• New TH 41	2,350 (5)
• Existing TH 41	700 (3)
• Highway 101	1,500 (5)
• US 169	8,700 (6)

**TABLE 1-1 continued**  
**IMPACT SUMMARY FOR THE PREFERRED ALTERNATIVE**

DESCRIPTION	<b>Roadway length:</b> 3.0 miles <b>Estimated Bridge length:</b> 9,350 feet <b>Estimated Number of piers:</b> 80
<b>TRANSPORTATION AND FISCAL IMPACTS continued</b>	
<b>Fiscal</b>	
Cost (in 2013 dollars) <sup>3</sup> (rounded to \$10M)	
• Construction (higher figure risk assessed for factors including mitigation)	\$370-\$430M
• Right of way	\$ 90-\$130M
• Total	\$460-\$560M
Benefit/Cost Ratio	3.39
<b>SOCIAL, ECONOMIC AND ENVIRONMENTAL IMPACTS</b>	
<b>Right of way</b>	320 acres
	57 affected parcels:
	<ul style="list-style-type: none"> <li>• 11 residential</li> <li>• 16 agricultural</li> <li>• 15 commercial</li> <li>• 12 public</li> <li>• 3 other</li> </ul>
Residential Units Needed to be Acquired <sup>4</sup>	10
<b>Business/employees</b>	11 businesses
	114 employees
<b>Fiscal</b>	
Annual tax loss (Scott County)	• \$188,360 (2013 dollars)
Annual tax loss (Carver County)	• \$ 20,260 (2013 dollars)
<b>Environmental Justice</b>	Noise and visual impacts to Jackson Heights
<b>Neighborhoods</b>	<ul style="list-style-type: none"> <li>• Separates corner of Heights of Chaska from remainder</li> <li>• Separates Carver and Chaska</li> </ul>
<b>Community Facilities</b>	• No impact
<b>Access</b>	<ul style="list-style-type: none"> <li>• Affects design of US 169/ existing TH 41 interchange</li> <li>• Assumes existing TH 41/ CSAH 78 realigned to the west</li> <li>• Local ramps at US 212/CSAH 11 interchange partially reconstructed</li> </ul>

<sup>3</sup> Project costs have been updated from 2005 dollars to 2013 dollars using the Consumer Price Index (CPI). <http://ftp.bls.gov/pub/special.requests/cpi/cpiat.txt>. Accessed May 10, 2013.

<sup>4</sup> Includes single family homes, townhomes, and manufactured home units. Does not include farm houses. Note: Agricultural parcels include properties that are planned for development before the anticipated build-year.

**TABLE 1-1 continued**  
**IMPACT SUMMARY FOR THE PREFERRED ALTERNATIVE**

<b>DESCRIPTION</b>	<b>Roadway length:</b> 3.0 miles <b>Estimated Bridge length:</b> 9,350 feet <b>Estimated Number of piers:</b> 80
<b>SOCIAL, ECONOMIC AND ENVIRONMENTAL IMPACTS continued</b>	
<b>Cultural Resources</b>	<ul style="list-style-type: none"> <li>Effect on cultural resources cannot be determined at this time</li> </ul>
<b>Parks, Trails, Recreational Areas (Section 4[f])</b>	<ul style="list-style-type: none"> <li>Temporary construction impacts to Canoe and Boating route</li> <li>Temporary construction impacts to planned trail</li> <li>22.0 acres MVNWR</li> <li>22.3 acres MVSRA/MV Trails</li> </ul>
<b>Threatened and Endangered Species</b>	<ul style="list-style-type: none"> <li>No Threatened and Endangered species listed within ½ mile</li> <li>Tier II mussel study anticipated</li> </ul>
<b>Vegetation/Habitat</b>	<ul style="list-style-type: none"> <li>Shading effects</li> <li>Salt spray, trash, debris, and opportunistic invasive species</li> <li>Bridge piers may create obstacles for wildlife; bridge could create flight barrier for birds</li> <li>Affects 58.3 acres of natural vegetation, including 24.3 acres of forest interior</li> <li>Creates additional forest edge and shrub/herbaceous edge (habitat fragmentation)</li> </ul>
<b>Seminary Fen/Assumption Creek</b> (3 calcareous fen component (CFC) areas)	No impact
<b>Surface Water Quality/Storm Water Runoff</b>	
Impervious surface	47.7 acres
Permanent ponding storage requirement (% in floodplain)	13.9 acre-ft. (31.9% in floodplain)
<b>Wetland Impacts</b>	13.2 acres
Wild and Scenic River	
Floodplain/Waterbodies	
<ul style="list-style-type: none"> <li>Floodplain encroachment</li> </ul>	7,250 feet (Minnesota River)
<ul style="list-style-type: none"> <li>Increase in flood elevation</li> </ul>	0.02 foot (Minnesota River)
Groundwater	Potential dewatering or direct impacts to groundwater, not excessive



**TABLE 1-1 continued**  
**IMPACT SUMMARY FOR THE PREFERRED ALTERNATIVE**

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<b>SOCIAL, ECONOMIC AND ENVIRONMENTAL IMPACTS continued</b>	
<b>Physical</b>	
Noise (daytime) (2040)	State standards exceeded at several receptors
Air Quality	
Soil, Water Contamination	<ul style="list-style-type: none"> <li>• 2 Medium risk sites</li> <li>• 7 High risk sites</li> </ul>
Visual Quality	
Steep Slopes, Erodible Soils – Length of erodible soil crossing (acres)	1,950 feet (13.4 acres)
Farmland	<ul style="list-style-type: none"> <li>• 16 agricultural parcels</li> <li>• 148 acres (NRCS)</li> </ul>
Excess/Borrow	Preliminary estimates indicate that up to 3.3 million cubic yards of borrow may be required.
<b>OTHER</b>	
<b>Construction Impacts</b>	
<b>Indirect Impacts</b>	Assumed US 169/existing TH 41 interchange impacts 3 homes
<b>Cumulative Impacts (greater potential)</b>	<ul style="list-style-type: none"> <li>• Land development-conversion of agricultural land to more intensive uses</li> <li>• Vegetation/Wildlife/Threatened and Endangered Species</li> <li>• Wetlands</li> <li>• MVNWR – visual, noise, habitat fragmentation, storm water</li> </ul>